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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
) IB Docket No. 96-261
International Settlement Rates)

REPLY COMMENTS OF THE
NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

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SUMMARY

NTIA has long held the view that accounting rates and collection charges are most likely to be aligned with costs when both nations providing joint international service permit competition among service providers. From our perspective, increased international competition is the solution to above-cost accounting rates, and we believe the recently concluded GBT agreement under the WTO is a concrete step in that direction.

NTIA concurs with the Commission's assessment that the traditional accounting and settlement system is in urgent need of reform, as it distorts competition and IMTS market performance and restricts market growth. Increases in the net settlements outpayments by U.S. carriers to foreign carriers are a major factor in the higher rates U.S. consumers pay for international telephone service compared to domestic long distance service. On average, consumers pay \$.99 a minute for international calls and only \$.16 for long distance calls. NTIA feels strongly that consumers should directly benefit from accounting and settlement rate reductions. Specifically, accounting rate reform should produce noticeable net benefits for the ultimate users of international services in the form of reductions in collection charges.

Despite efforts by the U.S Government over the past five years to advance accounting rate reform at the multilateral level

through the International Telecommunication Union (ITU) and the Organization for Economic Cooperation and Development (OECD), accounting rates on most international routes remain significantly above the cost of providing service. The slow pace of accounting rate reform and the continued coexistence of competitive markets with more restricted monopoly markets have caused asymmetries in market access and pricing policies.

NTIA believes the Commission's goals are consistent with the Executive Branch's goals of (1) reforming the international accounting rate system and moving towards cost-based accounting rates; (2) addressing asymmetries in market liberalization in the provision of international telecommunications services; and (3) opening foreign markets to ensure the introduction of effective competition in telecommunications.

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REPLY COMMENTS OF THE
NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

The National Telecommunications and Information Administration (NTIA), an Executive Branch agency within the Department of Commerce, is the President's principal adviser on domestic and international telecommunications and information policy, as well as principally responsible for the development and presentation of domestic and international telecommunications and information policy. NTIA respectfully submits the following Reply Comments in response to the Commission's Notice of Proposed Rulemaking in the above-captioned proceeding.¹

I. INTRODUCTION AND BACKGROUND

The *Notice* articulates longstanding concerns, voiced by the Executive Branch as well as the Commission, regarding the

1. *International Settlement Rates*, Notice of Proposed Rulemaking, IB Docket No. 96-261, FCC 96-844 (rel. Dec. 19, 1996).

deleterious effects on U.S. consumers of above-cost accounting rates.² Increases in the net settlements outpayments by U.S. carriers to foreign carriers,³ which have risen from \$1.2 billion in 1985 to approximately \$4.9 billion in 1995,⁴ are a major factor in the higher rates U.S. consumers pay for international telephone service compared to domestic long distance service. On average, consumers pay \$.99 a minute for international long distance calls and only \$.16 for domestic long distance calls.⁵

Despite efforts by the U.S. Government over the past five years to advance accounting rate reform at the multilateral level through the International Telecommunication Union (ITU) and the Organization for Economic Cooperation and Development (OECD), accounting rates on most international routes remain significantly above the cost of providing service. The slow pace of accounting rate reform and the continued coexistence of

2. See *Regulation of International Settlement Rates*, Notice of Proposed Rulemaking, CC Docket No. 90-337, 5 FCC Rcd 4948 (rel. Aug. 7, 1990); Phase II, Further Notice of Proposed Rulemaking, 6 FCC Rcd 3434 (rel. May 23, 1991); Report and Order, 7 FCC Rcd 559 (rel. Dec. 23, 1991); Phase II, Second Report and Order and Second Further Notice of Proposed Rulemaking, 7 FCC Rcd 8040 (rel. Nov. 27, 1992) [hereinafter Second Report and Order]. See also *Policy Statement of International Accounting Rate Reform*, 11 FCC Rcd 3146 (1996).

3. Settlement payments (the settlement rate is typically one-half the accounting rate negotiated between the originating and terminating carrier) are paid by the originating carrier on those outbound minutes that exceed inbound minutes of traffic (i.e. the imbalance between outbound and inbound minutes).

4. See Notice, *supra* note 1, Appendix A.

5. See Notice, *supra* note 1, ¶ 9.

competitive markets with more restricted monopoly markets have caused asymmetries in market access and pricing policies. Such market distortions have been accentuated by new methods of call processing that circumvent the accounting and settlement rate system. As the Commission has noted, carriers now meet increased global demand for low-cost international service using technologies that effectively minimize differences in both collection charges and settlement rates.⁶ Such pressures on the current accounting and settlement rate system have not, however, been sufficient in stimulating widespread accounting rate reform.

NTIA therefore concurs with the Commission's assessment that the traditional accounting and settlement system is in urgent need of reform, as it distorts competition and IMTS market performance and restricts market growth.

The United States is not alone in recognizing the market distortions inherent in the continued application of the current accounting and settlements system. Indeed, in 1992 the members of the ITU adopted Recommendation D.140, which calls for adoption of non-discriminatory, transparent, and cost-oriented accounting rates within five years.⁷ More recently, the Secretary General of the ITU has urged accounting rate reform consistent with the

6. See Notice, *supra* note 1, ¶¶ 12-14.

7. See ITU-T Recommendation D.140, *Accounting Rate Principles for International Telephone Services*, Geneva (1992, revised 1995) [hereinafter ITU Recommendation D.140].

pace and scope of telecommunications liberalization around the world.⁸ In that context, the Commission's *Notice* is both timely and appropriate.

The Commission's *Notice* proposes new international settlement benchmark rates for international message telephone service (IMTS) between the United States and foreign countries. The proposed benchmarks are target ceilings for rates that U.S. carriers would pay to foreign carriers for terminating U.S. calls. The Commission cites two reasons for the new proposed benchmark rates. First, it believes that current benchmarks have become obsolete due to technological and global market changes. Second, the FCC cites an equally pressing need for settlement rates that are closer to the cost-based rates that would be established in a competitive market.

The proposals and goals in the *Notice* represent the rational progression of an ongoing effort by the U.S. Government to reform the international accounting rate system. In a competitive market, settlement rates would naturally move closer to

8. See Dr. Pekka Tarjanne, *Submission at ITU-Telecommunications Standardization Sector, Study Group 3*, Geneva, Nov. 11-15, 1996 [hereinafter *Tarjanne Study Group 3 Submission*]. In addition, the Secretary General created an informal expert group on international accounting and settlements reform, that recently held its first meeting in Geneva (Mar. 24-25, 1997). See also Letter from Dr. Pekka Tarjanne, Secretary General of the International Telecommunications Union to Ambassador Vonya McCann, U.S. Department of State (Feb. 21, 1997) (assuring Amb. McCann that he is committed to "achieving a reform of accounting rates").

incremental cost but we cannot rely solely on market forces to achieve timely reform of accounting rates in markets with limited or no competition. Therefore, as explained further below, NTIA supports the FCC's efforts to reduce international accounting rates in order to reduce international calling prices (collection charges) for consumers.

II. NTIA'S SPECIFIC COMMENTS

As noted in a letter filed in this proceeding on February 7, 1997, by NTIA, United States Trade Representative (USTR), and the Department of State, the Executive Branch supports the goals and objectives of the Commission's Notice. In particular, these agencies believe the Commission's goals are consistent with the Executive Branch's goals of (1) reforming the international accounting rate system and moving towards cost-based accounting rates; (2) addressing asymmetries in market liberalization in the provision of international telecommunications services; and (3) opening foreign markets to ensure the introduction of effective competition in telecommunications.⁹

NTIA has long held the view that above-cost accounting rates do not represent a problem in and of themselves, but are rather symptomatic of a much larger problem in international telecommunications -- the problem of asymmetry created by the

9. See Letter from Larry Irving, Assistant Secretary of Commerce for Communications and Information, et al. to Reed E. Hundt, Chairman, FCC (Feb. 7, 1997).

coexistence of competitive and monopoly-oriented markets. Accounting rates and collection charges are most likely to be aligned with costs when both nations providing joint international service permit competition among service providers.¹⁰ From our perspective, increased international competition is the solution to above-cost accounting rates, and we believe the recently concluded World Trade Organization agreement on basic telecommunications is a concrete step in that direction.

As the Commission is aware, NTIA has been a strong advocate of accounting rate reform at the international level and has worked closely with other Executive Branch agencies and the Commission in advancing such reform at the ITU and the OECD. NTIA supported the adoption of ITU Recommendation D.140 in 1992 on Accounting Rate Principles for International Telephone Service, as well as subsequent work leading to the adoption of three annexes to D.140 that clarify critical aspects related to the implementation of D.140. Reflecting one of the primary purposes of the ITU -- "to foster collaboration among its members

10. See Comments of NTIA, *Regulation of International Accounting Rates*, CC Docket No. 90-337, at 6 (filed Oct. 15, 1990); Reply Comments of NTIA, CC Docket No. 90-337, at 3 (filed Nov. 13, 1990) (stating that uniformity in settlement arrangements might not be necessary on routes having full bilateral competition); Reply comments of NTIA, *Phase II*, CC Docket No. 90-337, at 1 (noting that cost-based accounting rates can only be achieved through increased competition on a global scale). See also letter from NTIA to Alfred C. Sikes, Chairman, FCC (Aug. 16, 1991).

with a view to the establishment of rates as low as possible consistent with an efficient service"¹¹ -- Recommendation D.140 represents a significant degree of international consensus on the key principles that apply to the establishment and revision of accounting rates for international service. These principles include: (1) transparency; (2) non-discrimination; and (3) cost-orientation. Other provisions in Recommendation D.140 call for a periodic review of accounting rates to ensure that they continue to reflect current cost trends as well as the submission of accounting rate data to the ITU to assist in the on-going study of accounting rate developments.

Similarly, NTIA has supported the economic analyses undertaken by the OECD on the impact of increased competition on the current accounting and settlements system, including analyses in such critical areas as the principles of transparency, non-discrimination, and cost-oriented pricing as the basis for accounting rate reform, the price elasticity of demand, the stimulus for and effects of alternative methods of call processing, and the broader economic benefits of introducing competition in domestic, long distance, and international telecommunications markets. Several findings outlined in a 1995 OECD report are worth noting, including: (1) "the underlying problem with international pricing structures is that there is no

11. ITU Recommendation D.140, *supra* note 7 bearing in mind subsection (c).

competitive marketplace and subsequently no market pressures to align prices with costs"; (2) "[b]ecause the current framework is not delivering appropriate price signals, it is adversely impeding growth in the volume of trade (to the detriment of all countries) and it is impeding the optimal utilization and deployment of the telecommunications infrastructure"; and (3) "[t]his situation would change if greater competition could be injected into the international telecommunications market."¹²

NTIA recognizes, however, that despite the broad international consensus achieved during the past five years on the need for accounting rate reform, actual reform has been only incremental at best. From our perspective, a significant number of international routes continue to be subject to above-cost accounting and settlement rates.

NTIA believes the Commission's proposals for accounting rate reductions outlined in the *Notice* represent a constructive means of implementing the primary goals of ITU Recommendation D.140 -- moving accounting rates closer to cost in an expeditious manner, consistent with transparency and non-discrimination.

12. See, *International Telecommunications Pricing Practices and Principles: A Progress Review*, Organization for Economic Development (OECD), Paris (1995), at 10 [hereinafter *OECD Report*].

A. Establishing New Benchmarks

NTIA is mindful of the Commission's previous efforts to advance accounting rate reform and, specifically, the Commission's adoption of benchmark settlement rates in 1992.¹³ As the Commission's record indicates, those early benchmarks assisted U.S. carriers in their negotiations with foreign carriers to reduce progressively accounting rates on a number of routes.¹⁴ NTIA shares the Commission's concerns, however, that settlement rates remain significantly above the cost of providing international services.¹⁵ NTIA also agrees with the Commission's assessment that the 1992 benchmarks have been rendered obsolete by the significant technological and structural changes in the international telecommunications services market. As such, NTIA believes it is both timely and appropriate to fashion new benchmark rates that will move accounting and settlement rates closer to the actual costs of providing international services.

13. See Second Report and Order, *supra* note 2, at 8047.

14. See Notice, *supra* note 1, ¶ 26 (noting a decline in the average settlement rate, from 51.5 cents per minute in 1992 to 36.5 cents per minute in 1996).

15. See Notice, *supra* note 1, ¶ 27.

B. Benchmark Methodology

As stated above,¹⁶ NTIA feels strongly that the pricing for termination of international services is best and most appropriately determined by competitive market forces. In that regard, NTIA supports the Commission's efforts through the Flexibility Order to permit U.S. carriers the option of negotiating alternative arrangements to terminate traffic,¹⁷ such as negotiating nondiscriminatory interconnection charges, with foreign carriers on those routes characterized by full competition.¹⁸

NTIA appreciates the difficulties the Commission catalogues in assessing the actual costs of terminating traffic.¹⁹ In the absence of accurate data regarding the costs to foreign carriers of terminating traffic, the Commission has appropriately identified alternative methods of calculating benchmarks. NTIA commends the Commission for relying on the cost guidelines contained in ITU Recommendation D.140, as those guidelines

16. See *supra* text accompanying note 10 (citing previous filings in which NTIA consistently argued that increased international competition is the appropriate solution to the problem of above-cost accounting rates).

17. See *Regulation of International Accounting Rates*, CC Docket No. 90-337, Phase II, Fourth Report and Order, FCC 96-459 (rel. December 3, 1996).

18. See *Tarjanne Study Group 3 Submission*, *supra* note 8, at 7 (warning that "it should not be assumed that accounting rates are the only system available").

19. See *Notice*, *supra* note 1, ¶¶ 31-34.

represent consensus at the multilateral level regarding the key network cost components for determining accounting rates. These components include: (1) international transmission facilities; (2) international switching facilities; and (3) the national extension.²⁰

We further believe the Commission's proposed methodology of applying foreign carrier tariffed prices as surrogates for the three network components cited in ITU Recommendation D.140 offers the best available approach to establishing new (if interim) benchmark rates.²¹ While such tariffed prices may not necessarily reflect the actual costs of providing each network component, they are the rates charged by foreign carriers to their domestic customers. NTIA concurs with the Commission's proposition that U.S. carriers should not pay foreign carriers more than the foreign carrier's domestic customers are charged for the same service,²² particularly when as described below, the Commission allows for alternative methodologies where appropriate.

20. See ITU Recommendation D.140, *supra* note 7, Annex A.

21. See, Comments of AT&T Corp., *In the Matter of International Settlement Rates*, IB Docket No. 96-261, at 15-17 (filed Feb. 7, 1997); Comments of MCI Telecommunications Corporation at 3-4; Comments of Sprint at 10-13 (indicating support for tariff components prices as the basis for determining interim benchmarks, albeit for differing reasons).

22. See Notice, *supra* note 1, ¶ 40.

C. Alternative Benchmark Methodologies

While the Commission proposes to develop new accounting rate benchmarks based on foreign carrier tariffed components prices,²³ the *Notice* indicates Commission willingness to consider additional factors as well as alternative methodologies in deriving new benchmark rates.²⁴ NTIA believes the Commission's approach is both constructive and appropriate, as it recognizes the complexities, in the absence of available cost data, of using surrogates for the actual costs of the three international service network elements. Similarly, NTIA applauds the Commission's willingness to hear challenges by carriers to the benchmarks that will ultimately be adopted as a result of this proceeding.²⁵ We also concur with the Commission's requirement that any such challenge must demonstrate that a carrier's costs to receive, transmit, and terminate international service are actually higher than the established benchmark.²⁶ Encouraging the submission of cost data is a vital step toward the goal of reducing accounting rates to the actual costs of providing international service.

In addition to seeking such cost data directly from individual carriers, NTIA believes that international

23. *Id.* ¶¶ 39-49.

24. *Id.* ¶¶ 56-57.

25. *Id.* ¶ 57.

26. *Id.*

organizations can and should play a constructive role in encouraging the provision of cost data.²⁷ In particular, ITU-T Study Group 3 can and should provide the cost information called for in the methodology included in the Annex A to Recommendation D.140. Doing so would be the most effective means of actually implementing the principles and provisions outlined in Recommendation D.140. NTIA also believes the members of Study Group 3 should focus particular attention on the costs of terminating international traffic, as it is the national extension portion of the D.140 methodology that is the least well known in terms of accurate cost data. More generally, NTIA believes the members of Study Group 3 should provide reports regarding their implementation, including timing and methodology, of Recommendation D.140.²⁸ NTIA is very mindful that Recommendation D.140, approved in 1992, specifically called on members to "achieve cost-orientated accounting rates in an expeditious manner," and that "staged reductions over a period normally of one to five years" was the agreed schedule.²⁹ We therefore believe that the actions the U.S. is proposing are

27. *Id.* ¶56 (requesting comments on proposal to stimulate production of incremental cost data from international organizations).

28. As the Commission is aware, NTIA, the Department of State, the Commission and U.S. industry have developed a formal U.S. Contribution to ITU Study Group 3 recommending these actions, which was submitted to the ITU on March 21, 1997 for discussion at the May 22-30, 1997 Study Group 3 meeting.

29. See ITU Recommendation D.140, *supra* note 7, #3.

critical to the meaningful implementation of the principles and provisions of Recommendation D.140.

NTIA also intends to work closely with the Commission and other Executive Branch agencies to advance accounting rate reform in the OECD and other regional organizations, such as APEC and CITELE. In particular, we intend to redouble our efforts to promote greater transparency in accounting rates among OECD members.³⁰ It is extremely difficult, if not impossible, to determine the relationship between accounting rates and the actual costs of providing international service without greater transparency. As the OECD has noted, transparency "is an important principle in ensuring that there is a certain amount of international discipline in international economic relations", and "is also necessary to ensure that appropriate adjustments are taking place in collection charges, as well as accounting rates, in response to changes in underlying cost factors (which in the case of collection charges include accounting rates)."³¹

D. Implementation of Benchmarks

NTIA supports a timely transition to the proposed benchmarks, as an effective means of moving accounting rates closer to the actual costs of providing international service.

30. As the Commission has noted, only the U.S. and the UK publish their accounting rates. See Notice, *supra* note 1, ¶ 16.

31. See OECD Report, *supra* note 13, at 11.

We also concur with the Commission's proposal that carriers file periodic progress reports, as a useful means of monitoring developments.

E. Effect of Settlement Rate Reductions on U.S. Collection Charges

NTIA believes that U.S. consumers should directly benefit from accounting and settlement rate reductions.³² Accounting rate reform should produce noticeable net benefits for the ultimate users of international services in the form of reductions in collection charges. Increased competition in the international services market should cause U.S. international carriers to pass through cost savings to consumers in the form of lower collection charges. U.S. consumers would likely respond either by increasing the number of international calls, or by increasing the duration or length of their calls, or both; such network stimulation should lead to even greater cost and price reductions. As more and more international routes become fully competitive with multiple carriers operating at each end, collection charges in both the U.S. and the foreign market will decline, stimulating even greater network usage and further decreases in cost and prices charged to consumers. The U.S.

32. NTIA is mindful of the Commission's longstanding concerns regarding the impact of above-cost accounting rates on U.S. collection charges for international services, which were in fact the express focus of the Commission's earlier efforts at accounting rate reform. See, e.g., *Regulation of International Accounting Rates*, NPRM *supra* note 2.

Government has consistently supported reductions in accounting rates so that they more closely reflect actual costs for the ultimate intended beneficiaries of lower international calling rates, the U.S. consumer.

III. CONCLUSION

NTIA commends the Commission for initiating such a timely effort to devise measures intended to move accounting and settlement rates closer to the costs of providing international service. For the foregoing reasons, NTIA respectfully submits these reply comments.

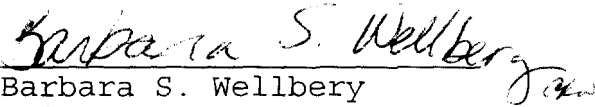
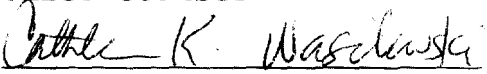
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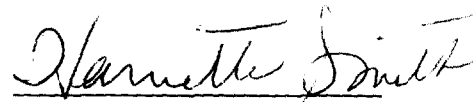
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Certificate of Service

I, Harriette Smith, do hereby certify that I have this 31st day of March, 1997, delivered copies of the foregoing pleading, via hand delivery (*) to the attached list of parties:


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